

**ASSEMBLY BILL**

**No. 1033**

**Introduced by Assembly Member Montanez**

February 20, 2003

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An act to add Section 308.4 to the Penal Code, relating to tobacco.

LEGISLATIVE COUNSEL'S DIGEST

AB 1033, as introduced, Montanez. Tobacco: prohibition on free distribution.

Existing law prohibits the sale, gift, or furnishing of tobacco products to a person under 18 years of age. A violation of this provision is subject to either a criminal or civil penalty.

This bill would prohibit the free distribution of tobacco products and other related products to any person, subject to criminal or civil penalties. Because the bill would create a new crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 308.4 is added to the Penal Code, to  
2 read:

1 308.4. (a) Notwithstanding any other provision of law, no  
2 person shall engage in the free distribution to any person of any  
3 tobacco, cigarette, or cigarette papers, or any other paraphernalia  
4 of tobacco, or any instrument or paraphernalia that is designed for  
5 the smoking or ingestion of tobacco or products prepared from  
6 tobacco.

7 (b) Any person who violates this section is guilty of a  
8 misdemeanor or subject to a civil action brought by the Attorney  
9 General, a city attorney, county counsel, or district attorney for an  
10 injunction and a civil penalty of up to two thousand dollars  
11 (\$2,000) per violation. This subdivision does not affect any other  
12 remedies available for a violation of this section.

13 SEC. 2. No reimbursement is required by this act pursuant to  
14 Section 6 of Article XIII B of the California Constitution because  
15 the only costs that may be incurred by a local agency or school  
16 district will be incurred because this act creates a new crime or  
17 infraction, eliminates a crime or infraction, or changes the penalty  
18 for a crime or infraction, within the meaning of Section 17556 of  
19 the Government Code, or changes the definition of a crime within  
20 the meaning of Section 6 of Article XIII B of the California  
21 Constitution.

